

REMARKS

The final Office Action of February 11, 2004, has been carefully studied. The claims in the application remain as claims 1-28; these claims define novel and unobvious subject matter and should be allowed. Favorable reconsideration and allowance are therefore earnestly solicited.

Claims 9 and 17 have been allowed. Applicants understand that these claims are deemed by the PTO to define novel and unobvious subject matter under Sections 102 and 103.

Nevertheless, some minor cosmetic amendments are proposed to be made above, which amendments clearly are not substantial amendments relating to patentability.

Claims 1-8, 10-16 and 18-28 have been again rejected as obvious under Section 103 from Dosch in view of Birenheide. This rejection is again respectfully traversed.

Focusing on paragraph 9 at page 4 of the final action, the examiner has taken the position that applicants' recitation of important distinctions of the present invention over the prior art do not serve to distinguish the claims over the prior art. Respectfully, applicants strongly disagree.

Only Dosch describes a container (storage canister 58) for his respirator/hood assembly 10 (Birenheide does not)

and Dosch's hood assembly 10 is activated only upon its removal from its container/canister 58. In contrast, the respiration hood of the present invention is activated upon opening of its container which importantly allows more time for evacuation of potentially harmful gases that may be present in the hood; and uses a somewhat simpler actuation mechanism.

Applicants' claims prior to the amendments proposed above clearly define this distinction whereby no additional amendments should be necessary. With respect, applicants note that all recitations which appear in a claim should be given consideration. With respect, the case law makes it clear that functional recitations as well as structural recitations are to be given full weight.

Moreover, the rejection is absolutely incorrect in its statement that "Dosch does teach an assembly that is immediately activated upon opening ...". The terminology "upon opening" means exactly that, i.e. when the assembly is opened, activation takes place at that time, i.e. "immediately". This simply does not happen in Dosch. One can open Dosch and nothing happens, i.e. nothing happens until the respiration hood is removed from the container/canister 58. Thus, there is no inherent function in Dosch whereby, upon opening the container/canister 58, activation occurs. Indeed,

one could open the storage canister 58 of Dosch and leave it open for an indefinite period of time, e.g. hours, days, weeks, months ... and the assembly 10 would not be activated because it has not been removed.

Nevertheless, applicants propose and submit above certain amendments for claim 1 to obviate the criticisms appearing in paragraph 9 of the final action. These proposed amendments to claim 1 emphasize that the gas treatment unit of the hood is activated, "*prior to removing the hood from the container*". This is not the case in Dosch, as in col. 4, lines 25-30 it is definitively stated that "*as the unit is withdrawn from the container*" the oxygen generator is automatically actuated by a firing lanyard.

The amendments to claim 1 also include the addition of a structural element to the activation of the gas treatment unit of the hood assembly, wherein the phrase "*by at least one activating member*" is proposed to be added, thereby addressing another issue at page 4, paragraph 9 of the Final Official Action.

Applicants wish to repeat that they believe that these amendments are not necessary because the claim 1 without such amendments define non-obvious subject matter from any consideration of Dosch in view of Birenheide for reasons set forth in the last Reply and above. Nevertheless, applicants

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are willing to proceed with claim 1 as amended above, if that will lead to allowance.¹

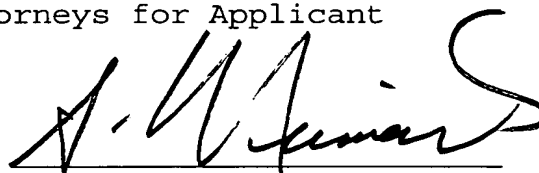
Withdrawal of the rejection is respectfully requested.

Favorable reconsideration, entry of the amendments presented above and allowance are respectfully requested.

Respectfully submitted,

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¹ Applicants believe that these amendments do not raise new issues because it should be clear that applicants are attempting to claim the same subject matter as previously claimed, using only different language to address the points raised in paragraph 9 of the final action.